

MORRISON TENENBAUM PLLC
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Presentment Date: August 11, 2015 at 10:00 a.m.
Objections, if any due: August 4, 2015 at 5pm
Hearing Date, if necessary: TBD

Attorneys for the Debtor

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

BRIAN DENKER,

Case No. 15-41069 (CEC)

Debtor.

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NOTICE OF PRESENTMENT

PLEASE TAKE NOTICE, that Brian Denker (the “**Debtor**”), by his attorneys, Morrison Tenenbaum PLLC., will present the annexed motion and proposed order granting the motion of the Debtor for entry of an Order pursuant to Rule 2004 of the Bankruptcy Code, authorizing the Debtor to conduct an examination of and request the production of documents from Edward J. Denker-Youngs, to Honorable Carla E. Craig, Chief United States Bankruptcy Judge, in her Chambers located at the United States Bankruptcy Court, 271 Cadman Plaza East, Room 3529, Brooklyn, New York 11201, on **August 11 at 10:00 a.m.** (the “**Presentment Date**”).

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the annexed Order must be made in writing and shall be filed with the Clerk of the Court, with a copy delivered to the Chambers of the Honorable Carla E. Craig, Chief United States Bankruptcy Judge, in her Chambers located at the United States Bankruptcy Court, 271 Cadman Plaza

East, Room 3529, Brooklyn, New York 11201 and served upon counsel to the Debtor, Morrison Tenenbaum PLLC, 87 Walker Street, Floor , New York, New York 10013; and (ii) the Office of the United States Trustee, 271 Cadman Plaza East, Brooklyn, New York 11201, in order that they be received in hand by no later than 5:00 p.m., on August 4, 2015,

PLEASE TAKE FURTHER NOTICE, that unless timely objections are filed, the Order may be approved and entered by the Bankruptcy Court without a hearing.

PLEASE TAKE FURTHER NOTICE, that if objections are timely filed and served, or if the Court so directs, a hearing will be held before the Honorable Carla E. Craig in her Courtroom on a date to be determined.

Dated: New York, New York
July 24, 2015

MORRISON TENENBAUM PLLC

By: /s/ Lawrence Morrison
Lawrence F. Morrison, Esq.
87 Walker Street, 2nd Floor
New York, NY 10013
(212) 620-0938

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

BRIAN DENKER,

Case No.: 15-41069 (CEC)

Debtor.

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**MOTION FOR AN ORDER, PURSUANT TO FED. R. BANKR. P. 2004,
AUTHORIZING MOVANT TO (a) CONDUCT AN
EXAMINATION OF AND (b) REQUEST PRODUCTION
OF DOCUMENTS FROM EDWARD J. DENKER-YOUNGS**

Brian Denker (the “Debtor”), by his undersigned counsel, hereby moves the Court for entry of an order, pursuant to Fed. R. Bankr. P. 2004, authorizing the Debtor to conduct an examination of and request the production of documents from Edward J. Denker-Youngs (“EDY”), husband of the Debtor (the “Application”), and respectfully represents as follows:

BACKGROUND

1. On March 13, 2015 (“Petition Date”), the Debtor filed a petition for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”).
2. The Debtor is an individual. The Debtor was compelled to file the within chapter 11 proceeding as a result of unauthorized charges on Debtor’s credit cards by EDY which the debtor cannot repay.
3. EDY has refused to turn over any documentation.

RELIEF REQUESTED

4. Accordingly, the seeks an Order, pursuant to Bankruptcy Rule 2004, authorizing and directing the examination of EDY. In addition, the Debtor seeks authorization to compel and command EDY to produce, one week before the examination date any and all credit cards and

other applications with financial institutions which were entered into by EDY and which the debtor has financial responsibility for.

5. The Bankruptcy Court may direct the examination of EDY pursuant to Bankruptcy Rule 2004(a), (b) and (d), which provides:

- a. Examination on Motion. On motion of any party in interest, the court may order the examination of any entity.
- b. Scope of Examination. The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge...

* * *

- c. Time and Place of Examination of Debtor. The court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending.

6. The Advisory Committee Note to Rule 2004(a) provides that an application may be made by ex parte motion or heard on notice, as follows:

[Rule 2004(a) specifies the manner of moving for an examination. The motion may be heard ex parte or it may be heard on notice.]

7. A proposed order granting the Debtor's Motion is attached hereto as *Exhibit "A"*

8. WHEREFORE, the Debtor respectfully requests entry of an Order, pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure: (a) directing EDY to appear for examination at the offices of the attorneys for MW, Morrison Tenenbaum PLLC, 87 Walker Street, 2nd Floor, New York, New York, 10013, fourteen (14) days from service of the Order granting this Application; and (b) directing EDY to produce to Morrison Tenenbaum PLLC, one week prior to the examination date, all credit cards and other applications with financial

institutions which were entered into by EDY and which the debtor has financial responsibility for.

Dated: New York, New York
July 24, 2015

MORRISON TENENBAUM PLLC

By: /s/ *Lawrence Morrison*
Lawrence F. Morrison, Esq.
87 Walker Street, 2nd Floor
New York, NY 10013
(212) 620-0938

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

BRIAN DENKER

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Case No.: 15-41069 (CEC)

Debtor.

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**ORDER PURSUANT TO BANKRUPTCY RULE 2004 DIRECTING THE
EXAMINATION OF THE DEBTOR AND FURTHER DIRECTING THE
PRODUCTION OF DOCUMENTS**

UPON the application (the “2004 Application”) of Brian Denker (the “Debtor”), filed on July __, 2015, by his attorneys, Morrison Tenenbaum PLLC, for entry of an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) directing Edward J. Denker-Youngs (“EDY”), the husband of the “Debtor”, to appear for an examination and to produce the documents set forth on Exhibit A to the 2004 Application; and the Court having found that adequate notice has been given, and that no further notice is necessary; and good and sufficient cause appearing therefore, it is hereby;

ORDERED, that pursuant to Bankruptcy Rule 2004, the Debtor shall produce to Debtor’s counsel, Morrison Tenenbaum PLLC, c/o Lawrence Morrison, Esq., 87 Walker Street, Floor 2, New York, New York 10013, on or before _____, 2015, true copies of the documents set forth on Exhibit A to the 2004 Application which are in EDY’s possession, custody and/or control; and it is further

ORDERED, that Edward J. Denker-Youngs shall be and hereby is directed to appear on or before _____, 2015 at 10:00 a.m. to be examined by the Debtor, or any of his agents or professionals herein, at the offices of Morrison Tenenbaum PLLC, 87 Walker Street, Floor 2, New York, New York 10013, and to continue from business day to business day

thereafter or otherwise in the sole discretion of the Debtor or his agents or professionals until the examination is fully concluded.

Dated: New York, New York
_____, 2015

CARLA E. CRAIG
CHIEF UNITED STATES BANKRUPTCY JUDGE

